

LEGISLATIVE BILL 209

Approved by the Governor February 13, 2001

Introduced by Health and Human Services Committee: Jensen, 20, Chairperson;
Byars, 30; Cunningham, 18; Price, 26; Suttle, 10; and
Thompson, 14; Tyson, 19

AN ACT relating to health and human services; to amend sections 71-1,107.26, 71-1,187, 71-1,194, 71-634, 71-1902, 71-1904, 71-1905, 71-2801, 71-2802, 71-2803.01, 71-2815, 71-2819, and 81-664, Reissue Revised Statutes of Nebraska, and sections 71-101, 71-133, 71-161.10, 71-183.02, 71-193.04, 71-193.16, 71-1,107.16, 71-1,136.01, 71-340, 71-3,106, 71-3,224, 71-1901, 71-1903, 71-2804, 71-2807, and 71-7614, Revised Statutes Supplement, 2000; to change licensure provisions relating to dentistry, dental hygiene, physician assistants, optometry, audiology, speech-language pathology, cosmetology, nail technology, foster care, and physical therapy; to provide for waiver of fees for corrections to birth or death certificates; to repeal the Community Health Care Act, the Parkinson's Disease Registry Act, and provisions regarding the Nebraska Commission on Human Genetic Technologies; to harmonize provisions; to repeal the original sections; to outright repeal sections 71-7501 to 71-7517, 71-7518.01 to 71-7518.09, 71-7520 to 71-7529, 81-681, 81-682, and 81-684 to 81-696, Reissue Revised Statutes of Nebraska, and sections 71-8101 to 71-8107 and 81-683, Revised Statutes Supplement, 2000; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 71-101, Revised Statutes Supplement, 2000, is amended to read:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343, 71-1301 to 71-1354, and 71-2801 to 71-2822 and sections 7 and 30 of this act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board or professional board means one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, means a person licensed under the Uniform Licensing Law;

(3) Profession or health profession means any of the several groups named in section 71-102;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

(5) Whenever a particular gender is used, it is construed to include both the masculine and the feminine, and the singular number includes the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure means permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, means a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so; and

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration.

Sec. 2. Section 71-133, Revised Statutes Supplement, 2000, is

amended to read:

71-133. (1) The oral or practical work portion of any examination for licensure or certification under the Uniform Licensing Law shall be given by a majority of the members of the appropriate professional board except in dentistry. The oral examination questions shall be limited to the practice of the profession. The members of the board need not be present at the examination given to applicants when a national examination or any other written examination is utilized. Such board may delegate the administration of such examination to the department. The department may designate an organization to administer a national or written examination.

(2) In dentistry, the final practical examination in clinical dentistry may be given at ~~the infirmary of~~ each of the dental colleges, schools, or departments legally conducted in the State of Nebraska, ~~of which the applicant is a graduate.~~ The Central Regional Dental Testing Service practical examination or any other regional or state practical examination that the Board of Dentistry determines to be comparable to the Central Regional Dental Testing Service practical examination may be used to meet the requirement of a final practical examination for dentists and for dental hygienists. Any person who applies for a license to practice dentistry or dental hygiene who has failed on one occasion to pass the oral ~~practical~~ examination administered by the ~~Board of Dentistry~~ board shall be required to subsequently take and pass the ~~Central Regional Dental Testing Service~~ practical examination before the department shall consider the applicant's qualifications for a license to practice dentistry or dental hygiene in the State of Nebraska. Any person who applies for a license to practice dentistry or dental hygiene who has failed on two occasions to pass any part of the examination shall be required to complete a course in clinical dentistry approved by the board before the department shall consider the results of a third examination as a valid qualification for a license to practice dentistry or dental hygiene in the State of Nebraska.

Sec. 3. Section 71-161.10, Revised Statutes Supplement, 2000, is amended to read:

71-161.10. (1) Upon the establishment of such standards for recredentialing by any professional board, by rule and regulation, and with the approval of the department, each credentialed person in active practice within the state shall, on or before the date of expiration of his or her credential in the year the requirement applies, certify on an affidavit form provided by the appropriate professional board that he or she has complied with section 71-161.09 during the preceding two-year period. The board shall, on or before the date of expiration of the credential in the year the requirement applies, report each credentialed person who has complied with the educational requirements to the department. A credentialed person who has not complied with such requirement shall not be issued a renewal credential unless such requirements are waived or unless such credentialed person is unable to comply due to circumstances beyond his or her control. Procedures for nonrenewal of the credential due to failure to submit proof of continuing education shall be identical to those for nonpayment of renewal fees as provided in sections 71-110 and 71-149, as well as procedures for reinstatement of the same. In cases other than nonrenewal, the procedures in sections 71-149 and 71-150 for refusal to renew shall apply. The department, on the recommendation of the appropriate professional board, may waive continuing education requirements, in part or in total, for any two-year credentialing period when a credentialed person submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

(a) The credentialed person holds a Nebraska credential but is not practicing his or her profession or occupation in Nebraska;

(b) The credentialed person has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the renewal date;

(c) The credentialed person has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding the renewal date; and

(d) The credentialed person was first credentialed within the twenty-four months immediately preceding the renewal date except as provided in subdivision (2)(d) of section 71-1,136.01.

The department, with the consent of the appropriate board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

(2) Each credentialed person shall provide a sworn affidavit listing continuing education activities in which he or she participated or attended,

the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the renewal application as may be designed by the department. Each credentialed person shall be responsible for maintaining in his or her personal files such certificates or records of credit from continuing education activities received from approved providers.

The appropriate board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing education credits. Each credentialed person selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 4. Section 71-183.02, Revised Statutes Supplement, 2000, is amended to read:

71-183.02. For purposes of sections 71-183 to 71-193.20 and section 7 of this act, dental assistant means a person, other than a dental hygienist, employed by a licensed dentist for the purpose of assisting such dentist in the performance of his or her clinical and clinical-related duties.

Sec. 5. Section 71-193.04, Revised Statutes Supplement, 2000, is amended to read:

71-193.04. Any person (1) of good moral character, (2) who has attained the age of eighteen years, and (3) who is a graduate of a training school for dental hygienists that is accredited by the Commission on Dental Accreditation of the American Dental Association and is approved by the Board of Dentistry and that requires a course of not less than two academic years may be examined by such board on the subjects considered essential by it for a dental hygienist. Upon passage of the examination, the board shall recommend to the department that a license to practice as a dental hygienist be issued.

Sec. 6. Section 71-193.16, Revised Statutes Supplement, 2000, is amended to read:

71-193.16. ~~As used in~~ For purposes of sections 71-183 to 71-193.20 and section 7 of this act, (1) general supervision means the directing of the authorized activities of a dental hygienist or dental assistant by a licensed dentist and shall not be construed to require the physical presence of the supervisor when directing such activities and (2) indirect supervision means supervision when the licensed dentist authorizes the procedure to be performed by a dental hygienist or dental assistant and the licensed dentist is physically present on the premises when such procedure is being performed by the dental hygienist pursuant to section 71-193.18 or the dental assistant.

Sec. 7. A dental hygienist student who practices dental hygiene upon patients in a clinic in the regular course of instruction in an accredited dental hygiene education program is not engaged in the unauthorized practice of dental hygiene.

Sec. 8. Section 71-1,107.16, Revised Statutes Supplement, 2000, is amended to read:

71-1,107.16. For purposes of sections 71-1,107.15 to 71-1,107.30, unless the context otherwise requires:

(1) Approved program ~~shall mean~~ means a program for the education of physician assistants which the board formally approves;

(2) Board ~~shall mean~~ means the Board of Medicine and Surgery;

(3) Department ~~shall mean~~ means the Department of Health and Human Services Regulation and Licensure;

(4) Physician assistant ~~shall mean~~ means any person who graduates from a program approved by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agency and the board, who satisfactorily completes a proficiency examination, and whom the board, with the concurrence of the department, approves to perform medical services under the supervision of a physician or group of physicians approved by the board to supervise such assistant;

(5) Supervision ~~shall mean~~ means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in section 71-1,107.17;

(6) Trainee ~~shall mean~~ means any person who is currently enrolled in an approved program;

(7) Proficiency examination ~~shall mean~~ means the initial proficiency examination approved by the board for the licensure of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board;

(8) Supervising physician ~~shall mean~~ means a (a) board-approved physician who utilizes an approved physician assistant or (b) backup physician;

(9) Backup physician ~~shall mean~~ means a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician; and

(10) Committee ~~shall mean~~ means the Physician Assistant Committee created in section 71-1,107.25.

Sec. 9. Section 71-1,107.26, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.26. (1) A fee in an amount established by the board shall accompany the ~~annual~~ biennial application to the board by a physician or group of physicians for ~~authorization~~ certification to supervise a physician assistant.

(2) Upon approval by the board of an application for licensure of a physician assistant, the applicant shall be charged a fee in an amount established by the board, and a fee in an amount established by the board shall accompany each ~~yearly~~ biennial application for renewal of the physician assistant license.

(3) All fees shall be expended for the benefit of the profession of medicine and surgery, and shall be otherwise used as provided in section 71-162, and for the purpose of administering and enforcing sections 71-1,107.15 to 71-1,107.30.

Sec. 10. Section 71-1,136.01, Revised Statutes Supplement, 2000, is amended to read:

71-1,136.01. (1) Each Nebraska-licensed optometrist in active practice within the State of Nebraska shall be required on or before August 1 of each even-numbered year to attend thirty-two hours biennially, of which sixteen hours shall be earned annually, of such approved scientific schools, clinics, forums, lectures, or optometric educational seminars, as may be announced and approved by the Board of Optometry, as a prerequisite for the licensee's next subsequent license renewal if at least sixteen hours of such educational program are conducted annually in the State of Nebraska and at least thirty-two hours of such educational program are conducted biennially in the State of Nebraska.

(2) Each licensed optometrist in active practice within the State of Nebraska shall, on or before August 1 of each even-numbered year, certify on forms provided by the board that he or she has complied with sections 71-1,133 to 71-1,136 and this section during the preceding two-year period. Such board shall, on or before August 1 of each even-numbered year, report all licensees who have complied with the educational requirements to the department. Licensees who have not complied with such requirements shall not be issued a renewal license unless exempt or excused for good cause shown. The department, on the recommendation of the board, may waive continuing education requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements. Such circumstances shall include situations in which:

~~(1)~~ (a) The licensee holds a Nebraska license but is not practicing optometry in Nebraska;

~~(2)~~ (b) The licensee has served in the regular armed forces of the United States during part of the twenty-four months immediately preceding the license renewal date;

~~(3)~~ (c) The licensee has submitted proof that he or she was suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing education hours during the twenty-four months immediately preceding any license renewal date; and

~~(4)~~ (d) The licensee was first licensed within the ~~twenty-four~~ twenty-six months immediately preceding the renewal date provided in section 71-110.

(3) The department, with the consent of the board, may adopt and promulgate rules and regulations not inconsistent with this section pertaining to waiver of continuing education requirements.

(4) Each licensee shall provide a sworn affidavit listing continuing education activities in which he or she participated or attended, the amount of credit received for each activity, and the date, location, and name of the approved provider which sponsored the activity on a separate form or portion of the license renewal application as may be designed by the department. Each licensee shall be responsible for maintaining in his or her personal files

such certificates or records of credit from continuing education activities received from approved providers.

(5) The board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing education credits. Each licensee selected for audit shall be required to produce documentation of his or her attendance at the continuing education seminars listed on his or her renewal application.

Sec. 11. Section 71-1,187, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,187. Nothing in the Uniform Licensing Law shall be construed to prevent or restrict:

(1) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person employed as a speech-language pathologist or audiologist by the federal government;

(2) A physician from engaging in the practice of medicine and surgery or any individual from carrying out any properly delegated responsibilities within the normal practice of medicine and surgery under the supervision of a physician;

(3) A person licensed as a hearing aid fitter and dealer in this state from engaging in the fitting, selling, and servicing of hearing aids or performing such other duties as defined in sections 71-4701 to 71-4719;

(4) The practice of audiology or speech-language pathology or the use of the official title of such practice by a person who holds a valid and current credential as a speech or hearing specialist issued by the State Department of Education, if such person performs speech-language pathology or audiology services solely as a part of his or her duties within an agency, institution, or organization for which no fee is paid directly or indirectly by the recipient of such service and under the jurisdiction of the State Department of Education, but such person may elect to be within the jurisdiction of sections 71-1,186 to 71-1,196; or

(5) The clinical practice in audiology or speech-language pathology required for students enrolled in an accredited college or university pursuing a major in audiology or speech-language pathology, if such clinical practices are supervised by a person licensed to practice audiology or speech-language pathology and if the student is designated by a title such as trainee or other title clearly indicating the training status. ~~+~~ ~~or~~

~~(6) The activities and services of persons fulfilling the supervised clinical experience requirements of section 71-1,190, which activities and services shall be performed by persons under the supervision of a person licensed in the area in which the individual is practicing.~~

Sec. 12. Section 71-1,194, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,194. (1) A temporary license to practice audiology or speech-language pathology may be granted to persons who establish residence in Nebraska and (a) who meet all the requirements for a license except passage of the examination required by section 71-1,190, which ~~+~~ ~~Such~~ temporary license shall be valid only until the date on which the results of the next licensure examination are available to the department, ~~and it may and shall not be renewed, or (b) who meet all the requirements for a license except completion of the professional experience required by section 71-1,190, which temporary license shall be valid only until the sooner of completion of such professional experience or eighteen months and shall not be renewed.~~

(2) The department shall establish and collect a fee of not less than ten dollars nor more than fifty dollars for issuance of the temporary license. The department shall have the power to deny, revoke, limit, suspend, or otherwise discipline a temporary license to practice audiology or speech-language pathology upon the grounds and in accordance with the Uniform Licensing Law.

Sec. 13. Section 71-340, Revised Statutes Supplement, 2000, is amended to read:

71-340. Sections 71-340 to 71-3,235 and sections 14 and 15 of this act shall be known and may be cited as the Nebraska Cosmetology Act.

Sec. 14. Manicuring means the practice of performing any or all of the acts of cutting, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other similar cosmetic or sanitary acts on the natural fingernails or toenails of a person but does not include the practice of nail technology.

Sec. 15. A licensed cosmetology establishment is not required to be licensed as a nail technology salon to provide nail technology services by either a licensed cosmetologist or by a licensed nail technologist.

Sec. 16. Section 71-3,106, Revised Statutes Supplement, 2000, is amended to read:

71-3,106. The Nebraska Cosmetology Act does not apply to or restrict the activities of the following:

(1) Any person holding a current license or certificate issued pursuant to Chapter 71 when engaged in the usual and customary practice of his or her profession or occupation;

(2) Any person engaging solely in ear piercing, tattooing, or other invasive beautification practices;

(3) Any person when engaged in domestic or charitable administration;

(4) Any person performing any of the practices of cosmetology or nail technology solely for theatrical presentations or other entertainment functions;

(5) Any person practicing within the confines of a hospital, nursing home, massage therapy establishment, funeral establishment, or other similar establishment or facility licensed or otherwise regulated by the department, except that no unlicensed or unregistered person may accept compensation for such practice;

(6) Any person providing services during a bona fide emergency;

(7) Any retail or wholesale establishment or any person engaged in the sale of cosmetics, nail technology products, or other beauty products when the products are applied by the customer or when the application of the products is in direct connection with the sale or attempted sale of such products at retail;

(8) Any person when engaged in nonvocational training; ~~and~~

(9) A person demonstrating on behalf of a manufacturer or distributor any cosmetology, nail technology, or electrolysis equipment or supplies if such demonstration is performed without charge; ~~and~~

(10) Any person or licensee engaged in the practice or teaching of manicuring.

Sec. 17. Section 71-3,224, Revised Statutes Supplement, 2000, is amended to read:

71-3,224. In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) Every person accepted for enrollment as a standard student shall meet the following qualifications:

(a) He or she has attained the age of seventeen years on or before the date of his or her enrollment in a nail technology school;

(b) He or she has completed the equivalent of a high school education; and

(c) He or she has not undertaken any training in nail technology in this state after January 1, 2000, without being enrolled as a nail technology student;

(2) Every person accepted for enrollment as a special study nail technology student shall meet the following requirements:

(a) He or she has attained the age of seventeen years on or before the date of enrollment in a nail technology school;

(b) He or she has completed the tenth grade; and

(c) He or she is actively continuing his or her formal high school education on a full-time basis as determined by the department.

Special study nail technology students shall be limited to attending a nail technology school for no more than eight hours per week during the school year;

(3) Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, or equivalent document as determined by the department. No nail technology school shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration;

(4) Every person accepted for enrollment as a nail technology student instructor shall show evidence of current licensure as a nail technician in Nebraska and completion of formal education equivalent to a United States high school education;

(5) The school shall, at all times the school is in operation, have at least one nail technology instructor in the school for each twenty students or fraction thereof enrolled in the school; ~~7 except that beginning and advanced students shall be taught in separate classes;~~

(6) The school shall not permit any nail technology student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the beginning curriculum, except that the board may establish guidelines by which it may approve such practices

as part of the beginning curriculum;

(7) No school shall pay direct compensation to any of its nail technology students. Nail technology student instructors may be paid as determined by the school;

(8) All nail technology students and nail technology student instructors shall be under the supervision of a nail technology instructor or nail technology student instructor at all times when nail technology services are being taught or performed;

(9) Once a nail technology student has been classified as a permanent drop, if after two years the student has not reenrolled in a nail technology school in Nebraska or transferred his or her hours to a school in another state, all hours earned by the student shall be declared void;

(10) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

(11) The school shall not credit a nail technology student or nail technology student instructor with hours except when such hours were earned in the study or practice of nail technology in accordance with the required curriculum. Hours shall be credited on a daily basis. Once credited, hours cannot be removed or disallowed except by the department upon a finding that the hours have been wrongfully allowed.

Sec. 18. Section 71-634, Reissue Revised Statutes of Nebraska, is amended to read:

71-634. The Department of Health and Human Services Finance and Support shall charge and collect a fee of (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, for each proceeding under sections 71-630 and 71-635 to 71-644. The department shall collect the fee prescribed by section 71-612 for a certified copy of the amended record. All fees so collected shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Cash Fund as provided in section 71-612.

If a certificate is amended pursuant to sections 71-630 and 71-635 to 71-644 as the result of an error committed by the department in the issuance of such certificate, the department may waive any fee required under this section.

Sec. 19. Section 71-1901, Revised Statutes Supplement, 2000, is amended to read:

71-1901. For purposes of sections 71-1901 to 71-1906.02 and section 24 of this act:

(1) Person ~~shall include~~ includes a partnership, limited liability company, firm, agency, association, or corporation;

(2) Child ~~shall mean~~ means an unemancipated minor;

(3) Department ~~shall mean~~ means the Department of Health and Human Services;

(4) Foster care ~~shall mean~~ means engaged in the service of exercising twenty-four-hour daily care, supervision, custody, or control over children, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home. Foster care ~~shall does~~ not include casual care at irregular intervals or programs as defined in section 71-1910; and

(5) Native American ~~shall mean~~ means a person who is a member of an Indian tribe or eligible for membership in an Indian tribe.

Sec. 20. Section 71-1902, Reissue Revised Statutes of Nebraska, is amended to read:

71-1902. Except as otherwise provided in this section, no person shall furnish or offer to furnish foster care for two or more children from different families without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. The department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the time period stated in the license. The department may issue a time-limited, nonrenewable probationary license to a licensee who agrees to establish compliance with rules and regulations that, when violated, do not present an unreasonable risk to the health, safety, or well-being of the foster children in the care of the applicant. No license shall be issued pursuant to this section unless the applicant has completed the required hours of training in foster care as prescribed by the department.

All nonprovisional and nonprobationary licenses issued under sections 71-1901 to 71-1906.02 and section 24 of this act shall expire two years from the date of issuance and shall be subject to renewal under the same terms and conditions as the original license, except that if a licensee

submits a completed renewal application thirty days or more before the license's expiration date, the license shall remain in effect until the department either renews the license or denies the renewal application. No license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. For the issuance or renewal of each nonprovisional and nonprobationary license, the department shall charge a fee of fifty dollars for a group home, fifty dollars for a child-caring agency, and fifty dollars for a child-placing agency. For the issuance of each provisional license and each probationary license, the department shall charge a fee of twenty-five dollars for a group home, twenty-five dollars for a child-caring agency, and twenty-five dollars for a child-placing agency. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations adopted and promulgated by the department.

For purposes of this section:

(1) Foster family home ~~shall mean~~ means any home which provides twenty-four-hour care to children who are not related to the foster parent by blood or adoption;

(2) Group home ~~shall mean~~ means a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home and which is designed to provide twenty-four-hour care for children and youth in a residential setting;

(3) Child-caring agency ~~shall mean~~ means an organization which is incorporated for the purpose of providing care for children in buildings maintained by the organization for that purpose; and

(4) Child-placing agency ~~shall mean~~ means an organization which is authorized by its articles of incorporation and by its license to place children in foster family homes.

Sec. 21. Section 71-1903, Revised Statutes Supplement, 2000, is amended to read:

71-1903. (1) Before issuance of a license under sections 71-1901 to 71-1906.02 and section 24 of this act, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the proper care and treatment of children. The department may investigate the character of prospective or existing licensees, any member of such licensee's household, and the staff and employees of foster care facilities by making a national criminal history record information check. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. The department may request the Department of Health and Human Services Regulation and Licensure to conduct sanitation and health standards investigations pursuant to subsection (2) of this section. The Department of Health and Human Services may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing foster care to see that such service is being properly conducted.

(2) The Department of Health and Human Services Regulation and Licensure shall make an investigation and report to the Department of Health and Human Services, within thirty days after receipt of the request from the Department of Health and Human Services, of all facilities and programs of licensed providers of foster care programs subject to this section or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of health and sanitation set by the Department of Health and Human Services for the care and protection of the child or children who may be placed in such facilities and programs. The Department of Health and Human Services Regulation and Licensure may delegate the investigation authority to qualified local environmental health personnel.

Sec. 22. Section 71-1904, Reissue Revised Statutes of Nebraska, is amended to read:

71-1904. The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1906.02 and section 24 of this act for (1) the proper care and protection of children by licensees under such sections, (2) the issuance, suspension, and revocation of licenses to provide foster care, (3) the issuance, suspension, and revocation of probationary licenses to provide foster care, (4) the issuance, suspension, and revocation of provisional licenses to provide foster care, (5) the provision of training

in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and the training required by section 24 of this act, and (6) the proper administration of ~~such~~ sections 71-1901 to 71-1906.02 and section 24 of this act. The training required by subdivision (5) of this section shall be between twelve and twenty-four hours as determined by the department.

Sec. 23. Section 71-1905, Reissue Revised Statutes of Nebraska, is amended to read:

71-1905. Any person who violates any of the provisions of sections 71-1901 ~~to 71-1904 and 71-1906~~ to 71-1906.02 and section 24 of this act shall be deemed guilty of a Class III misdemeanor.

Sec. 24. Families who provide foster care for Native American children off-reservation shall receive training annually to enhance their understanding of Native American Culture and values and the unique status of Native Americans. To the extent possible, the training shall be specific to the child's tribal affiliation. The department on the recommendation of the advisory committee established pursuant to section 71-1906.02 shall develop the necessary training materials and conduct or provide for the conduct of training sessions.

Sec. 25. Section 71-2801, Reissue Revised Statutes of Nebraska, is amended to read:

71-2801. For ~~the purpose~~ purposes of sections 71-2801 to ~~71-2804~~ 71-2822 and section 30 of this act, physical therapy ~~shall mean~~ means the treatment of any bodily condition of any person by the use of the physical, chemical, and other properties of heat, light, water, electricity, massage, and active or passive exercise, but does not ~~It shall~~ not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, including cauterization.

Sec. 26. Section 71-2802, Reissue Revised Statutes of Nebraska, is amended to read:

71-2802. Sections 71-2801 to ~~71-2804~~ 71-2822 and section 30 of this act do not include the following classes of persons:

(1) Licensed physicians and surgeons, chiropractors, dentists, chiropractors, osteopathic physicians, or massage therapists, who are exclusively engaged in the practice of their respective professions;

(2) Physicians and surgeons of the United States Army, Navy, or Public Health Service when acting in the line of duty in this state; or

(3) Physical therapists or physical therapist assistants licensed or certified in another jurisdiction who are participating in continuing educational programs.

Sec. 27. Section 71-2803.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-2803.01. (1) The board may issue a temporary license or certificate to practice as a physical therapist or physical therapist assistant to a person who:

(a) Meets all the requirements for a license or certificate except passage of the examination required by sections 71-2801 to 71-2822 and section 30 of this act;

(b) Submits an application and a fee of not less than ten dollars nor more than fifty dollars as established by the department upon recommendation of the board;

(c) Has registered to take the first examination to be given following the issuance date of the temporary license or certificate; and

(d) Has not been previously issued a license or certificate.

(2) A temporary license or certificate shall:

(a) Allow the holder to practice only when supervised by a licensed physical therapist; and

(b) Become null and void upon the department's notification that the temporary license holder or temporary certificate holder has either passed or failed the examination.

The board may approve an extension of a temporary license for up to six months upon showing of good cause by the license holder or certificate holder. The fee for such extension shall be the same as for the initial temporary license or certificate.

(3) The department may deny, revoke, limit, suspend, or otherwise discipline a temporary license or temporary certificate to practice physical therapy upon the grounds and in accordance with the Uniform Licensing Law.

Sec. 28. Section 71-2804, Revised Statutes Supplement, 2000, is amended to read:

71-2804. For purposes of sections ~~71-2803~~ 71-2801 to 71-2822 and section 30 of this act, approved educational program shall mean a program of

physical therapy or physical therapist assistant education and training approved by the Board of Physical Therapy. Such approval may be based on the program's accreditation by the American Physical Therapy Association or by equivalent standards established by the board.

Sec. 29. Section 71-2807, Revised Statutes Supplement, 2000, is amended to read:

71-2807. The Board of Physical Therapy shall, with the approval of the department, adopt and promulgate rules and regulations as necessary for the administration of sections 71-2801 to 71-2822 and section 30 of this act. Such rules and regulations shall include, but not be limited to, a definition for onsite supervision of a physical therapist assistant and the proper utilization of such assistant by a physical therapist and what constitutes an emergency not requiring onsite supervision of a licensed physical therapist.

Sec. 30. (1) Every physical therapist who has an active license shall, on or before November 1, 2003, and on or before November 1 of every odd-numbered year thereafter, complete twenty hours of continuing education as a prerequisite for his or her next subsequent license renewal. Such continuing education shall consist of such approved scientific schools, clinic, forums, lectures, or physical therapy educational seminars as may be announced and approved by the Board of Physical Therapy pursuant to the Uniform Licensing Law.

(2) Every physical therapist assistant who has an active certificate shall, on or before November 1, 2003, and on or before November 1 of every odd-numbered year thereafter, complete ten hours of continuing education as a prerequisite for his or her next subsequent license renewal. Such continuing education shall consist of such approved scientific schools, clinics, forums, lectures, or physical therapy educational seminars as may be announced and approved by the board pursuant to the Uniform Licensing Law.

Sec. 31. Section 71-2815, Reissue Revised Statutes of Nebraska, is amended to read:

71-2815. (1) The department, with the concurrence of the board, shall approve an application by a licensed physical therapist to supervise a physical therapist assistant when the proposed assistant is a graduate of an approved program. All physical therapist assistant applicants shall also successfully pass the written and practical examinations adopted by the board, with the concurrence of the department.

(2) The board shall grant any practicing physical therapist a certificate of approval to supervise not more than two physical therapist assistants. The department may certify as a physical therapist assistant and furnish a certificate to any person not qualified under subsection (1) of this section if such person can furnish written evidence to the board that he or she has been employed in the State of Nebraska for three years within the last five years under the supervision of a physical therapist licensed in Nebraska and such person possesses knowledge and training or a combination of knowledge and training equivalent to that obtained in an approved school. The board may certify persons as physical therapist assistants under this section for eighteen months only after August 24, 1979. On and after November 1, 2001, a certificate issued under this section shall be in effect for two years from the date of issuance and shall be renewable upon presentation to the board of evidence of completion of the continuing education requirements set out in section 30 of this act and payment of the renewal fee provided in section 71-2819.

(3) If the supervision of a physical therapist assistant is terminated by a physical therapist or by a physical therapist assistant, the physical therapist shall notify the department of such termination. A physical therapist who thereafter assumes the responsibility for such supervision shall obtain a certificate of approval to supervise a physical therapist assistant from the department prior to the use of the physical therapist assistant in the practice of physical therapy.

Sec. 32. Section 71-2819, Reissue Revised Statutes of Nebraska, is amended to read:

71-2819. (1) The department shall establish and collect the following fees:

(a) For an initial application by a physical therapist for approval to supervise a physical therapist assistant, an amount not less than twenty-five nor more than three hundred dollars;

(b) For annual renewal of the approval to supervise a physical therapist assistant, an amount not less than ten nor more than two hundred fifty dollars;

(c) For an initial application for certification as a physical therapist assistant, an amount not less than seventy-five nor more than three hundred dollars;

(d) For ~~annual~~ biennial renewal of certification as a physical therapist assistant, an amount not less than ~~ten nor more than two~~ twenty nor more than five hundred dollars; and

(e) For a duplicate original certificate, ten dollars.

(2) Any applicant whose application is rejected shall be allowed the return of his or her fee, except for an administrative charge set by the department of at least twenty-five dollars to be retained by the department.

(3) The department, upon the recommendation of the board, shall determine the exact fee to be charged based on administrative costs incurred by the board.

(4) All fees received shall be expended (a) for the benefit of the profession of physical therapy, (b) as provided in section 71-162, and (c) for the purpose of administering and enforcing sections ~~71-2808~~ 71-2801 to 71-2822 and section 30 of this act.

Sec. 33. Section 71-7614, Revised Statutes Supplement, 2000, is amended to read:

71-7614. (1) The Nebraska Health Care Cash Fund shall be used for grants for (a) public health services which focus on health education, preventive health measures, and environmental health, assessment, and assurance, including services for reservation or service areas of federally recognized Native American tribes in Nebraska and organizations that focus on the health of minority groups, (b) activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children, (c) conversion of hospitals in rural areas of the state to critical access hospitals, (d) education, recruitment, and retention of primary care professionals, behavioral health professionals, and nurses for medically underserved areas, (e) health infrastructure development which is supportive of telemedicine capability, including, but not limited to, high-speed data and medical information transmission, and (f) the development and expansion of community-based aging services designed to promote the independent living status of and delay institutional care for elderly persons, including, but not limited to, personal care, respite care, homemaker care, and chore and transportation services.

(2) The Nebraska Health Care Council is created. The Director of Finance and Support or his or her designee shall be an ex officio member of the council. The council shall consist of a chairperson and eight additional members appointed by the Governor with the approval of a majority of the Legislature. The chairperson and additional members shall be appointed for three-year terms, except that of the initial members, three shall be appointed for one-year terms and three for two-year terms. The membership shall include at least one consumer and one health care provider and shall be representative of all geographical regions of the state. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term. The Department of Health and Human Services Finance and Support shall provide staff support for the council. The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall also assist the Department of Health and Human Services Finance and Support and the council as may be necessary. Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The council, with the approval of the Director of Finance and Support, shall award grants under subsection (1) of this section to a person or entity for expenditures, including, but not limited to, startup and training expenses and operating losses, which will improve access to or delivery of health care services to medically underserved individuals or in medically underserved areas or which will help contain or reduce the cost or improve the quality of health care services.

(4) Eligible services under subdivision (1)(a) of this section shall include, but not be limited to, (a) ~~projects to implement the Community Health Care Act,~~ (b) the hiring of school nurses by educational service units, school districts, public health entities, or partnerships between schools and public health entities in order to identify children for medicaid eligibility and to provide immunizations and other public health services, (c) ~~(b)~~ health education and activities that focus on prenatal care, proper diet, physical activity, the reduction of teen and other unintended pregnancies, the prevention of disease, and other public health problems, (d) ~~(c)~~ staffing needs for public health services or education, including recruitment and training, (e) ~~(d)~~ pregnancy testing, (f) ~~(e)~~ tests and screenings for blood pressure, cholesterol, sexually transmitted diseases, cervical cancer, breast cancer, communicable diseases, and other potential public health problems, (g) ~~(f)~~ matching funds for state and federal health programs designed to address

public health needs, ~~(h)~~ (g) laboratory equipment to enable the Department of Health and Human Services Regulation and Licensure to carry out its powers and duties relating to laboratory services, and ~~(i)~~ (h) public health environmental services.

(5) This section does not create an entitlement to any funds available for grants under this section, and the council may award grants to the extent funds are available and, within its discretion, to the extent such applications are approved. No project shall receive funding for more than three years through such grants unless the council determines that unusual circumstances dictate the need for an extension of funding. Extensions shall be granted for no more than one year at a time and shall be reported by the Department of Health and Human Services Finance and Support to the Health and Human Services Committee of the Legislature.

(6) The department shall:

(a) In consultation with the Nebraska Health Care Council, develop criteria for the awarding of grants from the Nebraska Health Care Cash Fund pursuant to subsection (1) of this section;

(b) Have the power to approve or disapprove decisions by the council regarding the selection of projects to be funded and the distribution and duration of project funding;

(c) In consultation with the council, establish standards, formats, procedures, and timelines for the successful implementation of approved projects;

(d) In consultation with the council, assist grant recipients in determining the effectiveness of the project and measure the accomplishment of the grant objectives; and

(e) Provide annual reports to the Governor and the Legislature concerning the projects. Each report shall include the number of applicants and approved applicants, an overview of the various projects, and detailed reports of the cost of each project.

(7) The department shall, in consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of projects funded from the fund pursuant to subsection (1) of this section. Such projects shall not include permanent, ongoing programs unless approved by the Legislature. The department or council may recommend projects to the Legislature for establishment as permanent, ongoing programs to be funded from the fund. Permanent, ongoing programs approved by the Legislature shall be fully funded on an annual basis prior to the use of the fund for any other project funded from the fund pursuant to subsection (1) of this section. Recipients of funding pursuant to subsection (1) of this section shall be required to provide, upon request, such data relating to the funded projects as the department deems necessary.

Sec. 34. Section 81-664, Reissue Revised Statutes of Nebraska, is amended to read:

81-664. For purposes of sections 81-663 to 81-675:

(1) Aggregate data means data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher means an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data means data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

(5) Medical record and health information registry means the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and includes the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, and the brain injury registry established in sections 81-653 to 81-661; ~~and the Parkinson's Disease Registry established in section 81-684;~~

(6) Patient-identifying data means the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research means study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention,

cure, or control of the diseases or injuries.

Sec. 35. Original sections 71-1,107.26, 71-1,187, 71-1,194, 71-634, 71-1902, 71-1904, 71-1905, 71-2801, 71-2802, 71-2803.01, 71-2815, 71-2819, and 81-664, Reissue Revised Statutes of Nebraska, and sections 71-101, 71-133, 71-161.10, 71-183.02, 71-193.04, 71-193.16, 71-1,107.16, 71-1,136.01, 71-340, 71-3,106, 71-3,224, 71-1901, 71-1903, 71-2804, 71-2807, and 71-7614, Revised Statutes Supplement, 2000, are repealed.

Sec. 36. The following sections are outright repealed: Sections 71-7501 to 71-7517, 71-7518.01 to 71-7518.09, 71-7520 to 71-7529, 81-681, 81-682, and 81-684 to 81-696, Reissue Revised Statutes of Nebraska, and sections 71-8101 to 71-8107 and 81-683, Revised Statutes Supplement, 2000.

Sec. 37. Since an emergency exists, this act takes effect when passed and approved according to law.